

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 18th day of June 1998

B E F O R E

THE HON'BLE MR. JUSTICE CHANDRASHEKARAIH

WRIT PETITION Nos.17416 &17436-39/97

BETWEEN :

1. V. Ramanna, 48 years,
S/o. Venkataramanappa,
R/a. Savarline road,
Shimoga.
2. J.M. Pinto, 58 years,
S/o. R. Pinto,
R/a. Hutha Colony,
Bhadravathi.
3. N.Y. Nataraj, 49 years,
S/o. Yellappa,
Lala Lajapathroy Road,
Shimoga.
4. B. Puradappa, 45 years,
S/o. A. Basappa,
R/a. Gadikoppa,
Shimoga Tq. & Dist.
5. D.H. Pundalika Rao,
S/o. M. Hari Rao,
Aged: 62 years,
R/a. Lala Lajapathroi Road,
Shimoga City.

.. PETITIONERS

(By Sri. B. Rudragowda, Adv.)

AND :

1. The Deputy Commissioner,
Shimoga District, Shimoga.

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2. Shivaputrachar, Major,
S/o. Veerabhadrachar,
Occ: Carpenter,
3. Hanumantharayappa, Major,
S/o. Ganganna,
Occ: Coolie,
4. Krishna @ Kitta,
S/o. Govindappa,
Major, Occ: Coolie,
5. Parvathamma, Major,
D/o. Yellappa,
Occ: H.H. Work & Coolie,
6. Arogyamma, Major,
W/o. Arogyaswamy,
occ: Coolie,

R2 to R6 are the
R/o. Alkol,
Gadikoppa Post,
Shimoga Taluk.

7. Suresh, Major,
S/o. M.L. Banasali,
Occ: Employee,
R/o. Cinemal Road,
Shimoga.

.. RESPONDENTS

(AMENDED AS PER COURT
ORDER DT.11.6.1998)

(By Sri. K. Nagaraja, HCGP for R1,
Sri. B.S. Patil & Shobha Patil
for R2 to R7)

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These petitioners are filed U/a.226 & 227
of the Constitution of India with a prayer to
quash vide Ann-0 dt.27.6.1997 of the D.C.,
Shimoga.

These petitions coming on for prl. hg.
in 'B' Group this day, the Court made the
following:-

O R D E R

The petitioners have challenged the order passed by the Deputy Commissioner on 27.6.1997 produced as Annexure-0 directing the petitioners and others from proceeding with the construction of the building on the site, on the ground that if the petitioners are allowed to continue to put up the construction it will lead to breach of peace ~~or~~ public tranquility. However there is no law and order problem. If there is likelihood of ^{breach} ~~breach~~ of peace or public tranquility, it is open for the Sub-Division Magistrate or the Executive Magistrate to take appropriate action under Sec.107 of Cr.P.C. But, the Deputy Commissioner has no power to pass an order of injunction restraining the persons from proceeding with the construction. Therefore, the order impugned is without the authority of law. It is also brought to my notice that the petitioners have already filed [✓] ~~the~~ suits [✓] as against some private persons and also said suits are pending.

2. In the result I pass the following order:

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These Writ Petitions are allowed. The order of the Deputy Commissioner dt.27.6.97 produced as Annexure-0 is quashed. However this order will not come in the way of taking appropriate action in order to prevent any breach of peace or public tranquility by Sub-Division Magistrate or Executive Magistrate under the provision of Cr.P.C.

Sd/-
JUDGE

CS/-

